

26 AUG 1999



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

William M. Lee, Jr.
LEE MANN SMITH McWILLIAMS SWEENEY & OHLSON
P.O. Box 2786
Chicago, IL 60690-2786

In re Application of	:	
PLOUG, Ole et al	:	
U.S. Application No.: 09/000,008	:	DECISION ON
PCT No.: PCT/DK96/00302	:	
Int. Filing Date: 04 July 1996	:	PETITION
Priority Date: 15 July 1995	:	
Attorney's Docket No.: 196-1142	:	
For: AXIAL PISTON MICROPUMP	:	

This decision is in response to applicants' "Request for Reconsideration of Decision on Request and Notification" filed 24 December 1998 and "Request for Withdrawal of Notification of Abandonment, Withdrawal of Notification of a Defective Response, and Supplement to Request for Reconsideration on Decision on Request and Notification" filed 22 March 1999.

BACKGROUND

On 09 December 1998, a decision dismissing applicant's petition filed 15 June 1998 was mailed. The application was abandoned as of 17 April 1998 for failure to file a timely complete and proper response to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 16 March 1998.

On 24 December 1998, applicants filed a "Request for Reconsideration of Decision on Request and Notification" which was accompanied by, *inter alia*, a Declaration of Jakob Bogh Schubert (Formerly Jakob Bogh Poulsen).

On 22 March 1999, applicants submitted a "Request for Withdrawal of Notification of Abandonment, Withdrawal of Notification of a Defective Response, and Supplement to Request for Reconsideration on Decision on Request and Notification" which was also accompanied by a Declaration of Jakob Bogh Schubert (Formerly Jakob Bogh Poulsen).

DISCUSSION

A review of the above-captioned application shows that the application was abandoned for failure to file a timely complete and proper response to Form PCT/DO/EO/905 mailed 16 March 1998. Specifically, applicants' petition filed 15 June 1998, did not include a grantable petition pursuant to 37 CFR 1.182. Accordingly, the declaration filed 26 March 1998 was not acceptable.

In the instant request to reconsider the prior decision, applicants argue that there "appears to be no rule or procedure which exactly applies to this rather unique situation, where all inventors sign the declaration and the declaration was timely filed, but one of the inventors changed his name and signed the declaration with his new name." Pet. ¶ 4 (24 Dec. 1998).

However, section 605.04(c) of the Manual of Patent Examining Procedure plainly states that "[i]n cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182." That is clearly what occurred here.

The declaration of Mr. Schubert submitted 29 June 1998, 24 December 1998, and 22 March 1999, verified that his name changed from Poulsen to Schubert after the filing of the international application. Since applicants did not furnish the requisite petition under 37 CFR 1.182, the declaration filed 26 March 1998 was not in compliance with 37 CFR 1.497(a) and (b) in that it does not identify all the inventors.

Consequently, the application was properly abandoned for failing to properly respond to the Form PCT/DO/EO/905 mailed 16 March 1998 requesting an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

RECOMMENDATION

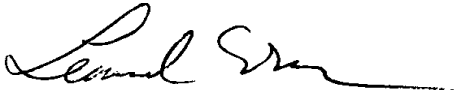
Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b), along with a proper reply. A proper reply would include a petition under 37 CFR 1.182 requesting to change the name of Jakob Bogh Poulsen to Jakob Bogh Schubert on the international application.

CONCLUSION

For the reasons noted above, applicants' request for reconsideration is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Since the above-captioned application is abandoned, applicants' request under 37 CFR 1.182 and 1.183 will not be considered. Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



Richard Lazarus
Supervisory PCT Legal Examiner
PCT Legal Office

JT/RL:jt



James Thomson
Petitions Attorney
PCT Legal Office

Tel: (703) 308-6457